

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTOINE PERKINS,

Plaintiff,

v.

Case No. 11-10794

ROBERT JOSLYN, and
LAURA KINDER,

HONORABLE AVERN COHN

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 24)
AND
DENYING DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT (Docs. 13, 19)

I.

This is a pro se prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff, an inmate in the custody of the Michigan Department of Corrections, claims that defendants violated his constitutional rights. On March 11, 2011, the Court granted plaintiff's request for in forma pauperis (IFP) status and directed service. Doc. 5. On April 4, 2011, the case was referred to a magistrate judge for pretrial proceedings. Doc. 6. Defendants filed motions for summary judgment. Docs. 13, 19. On December 6, 2011, the magistrate judge issued a Report and Recommendation (MJRR) recommending that the motions be denied. For the reasons that follow, the MJRR will be adopted and defendants' motions will be denied.

II.

A district court must conduct a de novo review of the parts of a magistrate judge's report and recommendation to which a party objects. 28 U.S.C. § 636(b)(1). The district "court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate" judge. Id. The requirement of de novo review "is a statutory recognition that Article III of the United States Constitution mandates that the judicial power of the United States be vested in judges with life tenure." United States v. Shami, 754 F.2d 670, 672 (6th Cir. 1985).

Here, neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Defendants' motions for summary judgment are DENIED.

SO ORDERED.

Dated: January 5, 2012

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

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Order Adopting Report and Recommendation

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to Antoine Perkins, 249158, Ojibway Correctional Facility, N5705 Ojibway Road, Marenisco, MI 49947 and the attorneys of record on this date, January 5, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160